



ZONING BOARD OF APPEALS
RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING
100 MAPLE AVENUE
SHREWSBURY, MASSACHUSETTS 01545-5398

September 14, 2004

PUBLIC HEARING: Paul and Kathleen M. Fournier, 8 Ashwood Circle, Shrewsbury, MA.

PURPOSE: To hear the appeal of Paul and Kathlene M. Fournier, 6 Heritage Road, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of part of the single family dwelling to be constructed upon property located at 8 Ashwood Circle as an in-law apartment. The subject premises is described on the Shrewsbury Assessor's Tax Plate 4 as Plot 16-116.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on August 30, 2004 and September 6, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Atty. Leland: Mr. Chairman, my name is Jeff Leland, attorney for the petitioners, Paul and Kathy Fournier. Kathy is sitting beside me and Paul is sitting right behind me. If I may Mr. Chairman, I have some plans that I would like to pass out to you and the members of the board.

Atty. Leland passed out plans to the board members.

Mr. Salerno: Folks, we're usually in that other room where we have a board where you can pin up the plans. If there's anybody that wants to see plans, we have an easel. Perhaps we can make a makeshift board if someone wants to see those.

Atty. Leland: If you like, I do have a larger set that I could put on that.

Mr. Salerno: Again, if it's going to help you in your presentation, go right ahead.

Atty. Leland: Mr. Chairman and members of the board, again, my name is Jeff Leland. I'm here for Paul and Kathy Fournier. They wish to have an in-law apartment in a new home that they are constructing. The location of the home will be at 8 Ashwood circle. The home is presently not built. I've given you a set of the designs that shows the front

of the house. On the first page is the front elevation from the front, back and sides. On the second page, it shows the foundation and basement plan. The in-law apartment is within the footprint of the structure. It's in the ground level, which has access from the side and the back. There actually is another building with the exact same features in the subdivision. The subdivision is Rawson Hill Estates. That home was built about 4 or 5 years ago. It is at 24 Birch Brush Road.

The petitioner's in-laws, actually Kathy's mother and father, will be the residents of this apartment. We recognize that part of the bylaw requires a deed restriction. That is understood by the petitioners. Mr. Consiglio, the father-in-law, is disabled and presently is mobile with a walker. He soon, probably, will have to be in a wheelchair. So, this in-law apartment is built with handicap accessibility.

Mr. Salerno: Is it going to have handicap baths?

Atty. Leland: Yes and it will have wider doors. The whole apartment will be built for handicap accessibility.

My clients have approached each of the neighbors and explained to them what they were intending to do. I believe that the response was generally all positive. I believe there is at least one resident here in support of the petition.

Ms. Murphy: Do you know approximately what the square footage of the apartment is?

Ms. Fournier: It's about 900 sq. ft.

Mr. Salerno: Ron, do these plans represent the handicap dimensions for doors and baths as they're drawn?

Mr. Alarie: Well, we haven't gotten into the specific plans, but in terms of providing these types arrangements within a single family home, there aren't any specific architectural requirements per the Mass Architectural Board's Rules and Regulations. Where it's within a private residence they're at liberty to do anything.

Mr. Salerno: That's what I'm asking you though. The plans that are here before us, they're asking for this first floor in-law apartment with handicap accessibility. Just looking at the scale here, roughly, it doesn't look like the doors are any larger or the bath. It doesn't appear that they are wide enough.

Mr. Alarie: The bath looks larger than what you'd normally see. The doorways, all they need in a formal unit, a handicap accessible unit, would only be a 32 in. clear opening. These certainly appear to meet that requirement. I haven't seen the complete plans. But again, anything they do would really be optional. There are no accessibility requirements for a private single family home.

Mr. Gordon: Is this a 3-level house with a basement, a first floor and an upper floor?

Atty. Leland: Yes, it is.

Mr. Gordon: Okay. The apartment is not the full first floor?

Atty. Leland: No, the apartment is actually at ground level. From the front, it would be below grade.

Mr. Gordon: The front would be below grade?

Atty. Leland: Yes. It's like a walkout basement.

Mr. Gordon: Okay. So, from the back, that's it. Can I consider it in the basement then?

Atty. Leland: It could be considered in the basement, except by the potential residents. They call it ground level, but it is, yes.

Mr. Gordon: My house is built the same way and we don't have a basement. We walk out the back into the yard. I was just curious. I was first confused that it was a split level, but it's not a split level?

Atty. Leland: It's not a split level.

Mr. Gordon: Okay, good.

Mr. George: Is this the same house as the Rezuke's?

Ms. Fournier: Yes.

Mr. George: So, how are you going to have access into the basement apartment? Is it going to be around the back or is it going to be through the main house?

Atty. Leland: There is access around the back and there is also access from the side. Is there also access from within the main house, just walk down stairs?

Mr. Fournier: Yes, on the side of the house, the side and the back. There are 2 entrances.

Mr. Salerno: Sir, are there plans to grade around the back of the house so that there's a ramp or something, anticipating the full use of a wheelchair?

Mr. Fournier: Well, there will be, yes.

Mr. Salerno: Just identify yourself, sir:

Mr. Fournier: Paul Fournier.

Mr. Salerno: There's only a 2-car garage. The parking will be off street. It's a grade from the street level to get to the rear, so you'll have to work that all out with the handicap ramp. You understand that you have no problem with the so called "sunset

provision” or that it’s only going to be used as an in-law apartment by people who fit the in-law description?

Ms. Fournier: Yes.

Mr. Salerno: It could never be used as rental.

Atty. Leland: Right, they understand that.

Mr. Salerno: Yes, ma’am. Just give us your name for the record.

Ms. Consiglio: My name is Rosalyn Consiglio. I am Kathy’s mother. It’s my husband who I am speaking of. I am a resident of Shrewsbury. We reside, right now, on Dalphen Road off of Oak Street. We’ve been residents here for 45 years. My husband is confined with a walker and will subsequently go into a wheelchair. He has a neurological problem. Thank you, Mr. Chairman.

Mr. Salerno: Thank you. Do any board members wish to inquire? Is there anybody in attendance this evening that wants to comment on this petition? Sir, just identify yourself for the record.

Mr. Quitadamo: My name is James Quitadamo. I live at 1 Hemlock Circle, which is on the corner of Ashwood. I support the appellants’ request for the variance.

Mr. Salerno: Thank you for taking the time to come. Are there any other inquiries? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On September 14, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Paul and Kathlene M. Fournier, 6 Heritage Road, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of part of the single family dwelling to be constructed upon property located at 8 Ashwood Circle as an in-law apartment.

The appellants propose to construct a new home upon the subject property and wish to include an in-law suite in the basement of the structure which will be occupied by Mrs. Fournier’s parents. The structure, as designed, has a walk-out basement and a portion of its area would contain a kitchen, living room and a bedroom with related laundry and bathroom facilities. The board reviewed this configuration and its intended occupancy and found that they were in complete harmony with the intent of the Zoning Bylaw in permitting such accessory living accommodations within a single family dwelling. It was, therefore, unanimously voted to issue the special permit subject to the restriction that the in-law apartment shall only be occupied by not more than three individuals, all of whom shall be related to the principal residents of the premises.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Patty and Ashraf Shaker, 63 Francis Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of Patty and Ashraf Shaker, 63 Francis Ave., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of an addition upon property located at 63 Francis Ave. maintaining the existing setbacks of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 22 as Plot 376.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on August 30, 2004 and September 6, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Poulin: My name is Dave Poulin. I'm the contractor for the Mr. and Mrs. Shaker. What we're looking for is a front yard setback variance. We would like to keep the proposed addition in line with the existing structure. I have just one copy of the plan if you could pass it around.

Mr. Alarie: All of the board members, Mr. Poulin, have a copy of that.

Mr. Poulin: Okay.

Mr. Alarie: Just to correct one thing, it's a special permit that you are requesting, not a variance.

Mr. Poulin: Right.

Mr. Alarie: It's for a special permit to maintain that existing front yard setback.

Mr. Poulin: Okay. That's what we would be looking for tonight.

Mr. Salerno: Can you give us a little more background on why you need it or why it's being requested.

Mr. Poulin: We'd just like to keep the proposed addition in line with the existing structure. It just makes more sense to do it that way. If they were to push it further back, it would take away from the backyard and it would not make as good a layout in tying the new into the existing. We don't have a set of plans yet. We haven't gotten to that point. We wanted to come here first and get your blessing.

Mr. Gordon: Mrs. Shaker, it appeared to me, and I'm not being facetious, you're trying to make your house grow up and increase its size.

Ms. Shaker: Thank you. We are a family of 4 and we can't eat in our kitchen together because it's too small.

Mr. Gordon: Oh, I believe you. So, this is just to make it the same size as the other houses in the neighborhood?

Ms. Shaker: No, it's for us. We, as a family, have grown. Like I said, we can't eat in the kitchen because the kitchen is too small. It was a 4-room house. We've outgrown it and we would like to stay where we are. So, we need to increase our living space.

Mr. Gordon: You'll be just about doubling it.

Ms. Shaker: We're very happy where we are.

Mr. Gordon: That's a nice neighborhood.

Ms. Shaker: It is, so we want to stay there. I want to be able to eat in my kitchen with my husband and my 2 kids.

Mr. Salerno: Ron, that's the only setback that's off on this lot, otherwise it conforms?

Mr. Alarie: That's the nonconforming feature. If they pushed it back to make it conforming, then they'd be seeking a variance to the rear. You can see that the rear yard is only 44 ft. with this addition and 40 ft. is the minimum.

Mr. Gordon: Is there going to be a garage underneath it?

Mr. Poulin: Yes.

Mr. Salerno: Do any board members wish to inquire? Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On September 14, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Patty and Ashraf Shaker, 63 Francis Ave., Shrewsbury, MA, for a

special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of an addition upon property located at 63 Francis Ave. maintaining the existing setbacks of said property.

The subject property was developed prior to the adoption of the current setbacks applicable to the Francis Ave. neighborhood and is legal nonconforming with respect to its front yard setback of 24 ft. The appellants propose to construct a 24 ft. wide by 28 ft. deep addition to the southerly side of their home that would maintain this existing setback.

Upon review of this appeal, the board found that proposed expansion of the Shaker's home would not materially alter its nonconforming configuration, that it would comply with the intent of the Zoning Bylaw in permitting the expansion of such structures and that it would not create any condition which would adversely impact the welfare of area residents. It was their opinion that the completed structure would compliment the general character of other homes within this neighborhood and that it would significantly enhance the living accommodations for the appellants' family. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Scott Robertson, 17 Grove Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Scott Robertson, 17 Grove Street, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of an addition upon property located at 17 Grove Street maintaining the existing setbacks of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 47 as Plot 20.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on August 30, 2004 and September 6, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Robertson: My name is Scott Robertson.

Mr. Salerno: You have to come to the table here, sir. I think you missed the initial reading of your appeal.

Mr. Robertson: I'm sorry. Scott Robertson. This is my proposed contractor for building the addition, Alan Hokanson. Basically, we're under 20 ft. from where we're starting the addition from the property line. I guess that's a condition that needs to be met. We're not going closer to the property line, we're going straight back from the existing structure. The property line is actually at an angle heading towards my neighbor. So, if anything, we would be getting farther away from the property line as we went back. We're only adding like 6 ft. So, it's really not that big of a deal. He seems to be cool with it.

Mr. Salerno: Okay, maybe you can translate that for me? Who's cool with it, your neighbor or your contractor?

Mr. Robertson: My neighbor.

Mr. Salerno: Your neighbor, okay.

Mr. Gordon: Is the addition going to be brick as the rest of the house is?

Mr. Robertson: The back half will just be vinyl sided, I believe.

Ms. Murphy: So, the addition wouldn't be increasing the nonconformity in any way?

Mr. Alarie: No, actually it would be a greater distance than that closest point of the house as it now stands.

Mr. Rosen: How big is the addition?

Mr. Robertson: It's about 6 ft. out from the existing structure. Then the rest of it is going to be through the center half of the back of the house.

Mr. Rosen: So, how many square feet?

Mr. Hokanson: It's 10 ft. x 15 ft. in the back and 6 ft. x 20 ft. on the side.

Mr. George: Are you proposing a deck too?

Mr. Hokanson: Yes. My father's on the other side of the hedge.

Mr. Robertson: There's plenty of room there. It doesn't present any problems.

Mr. Salerno: Mr. Hokanson, do you have any proposed plans or drawings?

Mr. Hokanson: I have one drawing. I'm caught off-guard a little bit here.

Mr. Robertson: I've got the same one probably.

Mr. Salerno: Well, I mean, we don't know what the profile is or what it will look like.

Mr. Hokanson: Sure, I have a couple of tentative ones. This is the footprint of the existing. The proposed addition is here and here. This is the existing. This is an addition put on some years ago. We're just matching it on this side and then coming out with a stub.

Mr. Salerno: The balance side of the addition, is that the same as this?

Mr. Hokanson: This is a gable roof running this way, the pitch going back. They've added 6 ft. on this side. This is open now. This is where we're proposing to match this side with the 6 ft. and the roof pitch here. Then we're going to reverse the gable and put it out this distance this way in the back with a proposed deck on this side.

Mr. George: What are you actually doing, adding onto the kitchen?

Mr. Hokanson: Well, it's more or less a bedroom. They're moving out 6 ft. They're 2 brothers. They have each side of the house. So, one wants to equal out the other one and then they want to put like a family room in the middle for both of them off of the back.

Mr. Salerno: Do you need to see these, Mr. Gordon?

Mr. Gordon: I'd like to.

Mr. Hokanson showed the plans to Mr. Gordon.

Mr. Salerno: Ron, we don't have them on this plot, but what are the setbacks here?

Mr. Alarie: What are the existing setbacks?

Mr. Salerno: Yes.

Mr. Alarie: On that side of the house, that front right corner is approximately 12 ft. At the back, where the addition starts, it's a little bit more.

Mr. Salerno: Is that the side yard or front?

Mr. Alarie: That's the side yard.

Mr. Salerno: Okay. What's the front? Do you know what the front is?

Mr. Alarie: No. But, it's only at that rear corner where the side yard is that comes into play with this appeal.

Mr. Salerno: Yes. I mean, essentially the stub addition that's coming off of the back doesn't encroach then?

Mr. Alarie: No. That's in conformance with the sides and the rear yard setback.

Mr. Salerno: So, in essence, it's just that balancing of the additions on each end of the house?

Mr. Alarie: Yes, it's that 6 ft. extension.

Mr. Hokanson: That 6 ft. extension will actually be recessed in another 4 in. because of the brick veneer. So, when we go out from that, we would step it back so that we don't break into the brick.

Mr. Salerno: Do any board members wish to inquire? Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision. Mr. Hokanson, you might want to retain these plans.

Decision

On September 14, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Scott Robertson, 17 Grove Street, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the construction of an addition upon property located at 17 Grove Street maintaining the existing setbacks of said property.

The siting of the appellant's home is legal nonconforming with respect to its westerly side yard setback. There is jog along the rear wall of the structure that is approximately 6 ft. in depth that Mr. Robertson proposes to in-fill in conjunction with the construction of a larger addition that will be built towards the center of the dwelling. In considering this request, the board found that the 6 ft. extension of the aforementioned setback, which is approximately 12 ft., would neither materially alter the nonconforming character of this property nor impact upon the welfare of area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Timothy Walsh, 7 Rockwell Drive, Shrewsbury, MA.

PURPOSE: To hear the appeal of Timothy Walsh, 7 Rockwell Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the installation of an inground swimming pool 8 ft. from the side lot line of property located at 7 Rockwell Drive. The subject premises is described on the Shrewsbury Assessor's Tax Plate 42 as Plot 7-6.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on August 30, 2004 and September 6, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Ms. Teachout: Good evening, I'm Joanne Teachout. I'm with HLCT Group out of Worcester. I'm representing Mr. Walsh tonight.

In my initial petition to your board, we basically are requesting a side yard setback for the pool that Mr. Walsh is proposing to put in. I've given you some calculations of the area. The property is 33,818 sq. ft. The buildable area, due to the bordering vegetative wetlands within the property boundaries, is reduced to 17,073 sq. ft. The existing house and deck that's existing on the lot at this point equals 1,918 sq. ft. Of the remaining front and side yards, 9,710 sq. ft. have an existing slope of approximately 19 %. Based on all of this when combined, we are petitioning for the side yard setback because, due to the wetlands and the topography, we just don't have the area to put an inground pool on this parcel of land. That is basically where our hardship is.

We have, according to Mr. Walsh, been in contact with the neighbor. I understand that the neighbors are here tonight. They will have some comments regarding what is being proposed.

We have tried to shift it. We have tried to move it. We've tried a lot of different areas, but every placement where we tried to put it, I either run into filling wetlands or creating more of a problem with the wetlands that are there. It's a very tricky lot to try to put a pool on.

Mr. Salerno: Would you show us on your diagram what's representative of the wetlands by way of your color code and then the different grades, perhaps, for the people that are here too?

Ms. Teachout: This green line here represents the existing border of the wetlands that are on the site. These are the existing contours, as you can see, that are sloping down in this direction. It all flows this way. This is the existing dwelling. If you're familiar with this or if you have walked the site, you'll notice that this is much lower than Rockwell Drive. As you come into this area, everything flows down this way. This is the area with the footprint over here that we are proposing for the pool.

We have tried to put it over in this area here. Looking at it from one area, one way of doing it would require something like a 14 ft. retaining wall in order to put it in that area there. It would be in the front yard, which does not really make a lot of sense. We've tried to shift the deck. We've tried a lot of different options. We just have not been able to come up with anything because of the wetlands that exist on the site.

Mr. Salerno: I assume there are small children in the family?

Ms. Teachout: I believe Timmy has 2.

Mr. Walsh: I have 3 boys.

Mr. Salerno: Three boys.

Mr. Gordon: Ron, you can't put a swimming pool in the front yard, can you?

Mr. Alarie: No, sir.

Mr. Gordon: That's against our bylaw?

Mr. Alarie: We restrict its placement to the side or rear yard.

Mr. Gordon: The side or rear, okay.

Mr. Alarie: Other than on a corner lot, excuse me.

Mr. Gordon: Yes.

Mr. Rosen: What's the size of the pool?

Ms. Teachout: We've cut this one down. It's about 32 ft. long and, at the widest point which is up at the deck area in this area here, I believe it's 27 ft. wide. It's what I remember doing.

Mr. Salerno: What's the depth, 8 ½ ft. in the diving end? You're going to have a diving board Tim?

Mr. Walsh: I don't know if I'll have a diving board, but there will be a deep end.

Mr. Salerno: So, for a Class I Pool with diving, that's the minimum that I think you can have, 32 ft. long?

Ms. Teachout: It is.

Mr. Salerno: The hopper has to be at least 8 ½ ft. You were here once before and you wanted to wait for a 5 member board.

Mr. Gordon: He elected to come back.

Mr. Salerno: Yes.

Mr. Gordon: We had 4 members.

Mr. Salerno: Right. I think, at that time too, you didn't have these plans as detailed as they are tonight?

Mr. Walsh: Correct.

Mr. Salerno: Okay. Are there any questions?

Mr. Gordon: The pool is on the north, west, south, east side of the house, the proposed pool?

Ms. Teachout: Excuse me?

Mr. Gordon: North is straight up?

Ms. Teachout: North is here.

Mr. Gordon: So, the south side?

Ms. Teachout: So, we're on the southerly side of the house.

Mr. Gordon: So, you should get sun there unless you have tall trees.

Ms. Teachout: Yes. There aren't too many tall trees. I know there's a lot of vegetation in the area of the wetlands. A lot of it is underbrush in the wetlands area from what I can remember. It's been a while since I've been out there to delineate them, but the area itself that we're proposing is relatively open at this point in time.

Mr. Gordon: The back of your backyard borders on a Limited Industrial Zone?

Mr. Walsh: Correct, yes.

Mr. Gordon: What will be the shielding between, I guess, what would be number 5 and you? Are you planning any shielding of it, other than the statutory fence?

Mr. Walsh: Yes. We're going to have a landscape design as well and try to work with the neighbors and try to create what's best for both of us in regards to the landscape.

Mr. Gordon: So, you'd have no problem if we asked for a landscape buffer of some type?

Mr. Walsh: No problem at all.

Mr. Gordon: You know that you have to put a fence around these things, as I found out?

Mr. Salerno: It's a minimum of 4 ft., I think.

Mr. Alarie: It's a minimum of 4 ft.

Ms. Murphy: Ron, what's the required setback?

Mr. Alarie: Thirty feet. This is in a Rural B District. The side yard setback for the pool is actually greater than the rear yard setback. The rear yard is 20 ft. across the board in all zones. He must comply with the side yard for the applicable district. That varies either 10, 20 or 30 ft. In this case, it's 30 ft.

Ms. Murphy: Understanding that, if you moved the position of the pool, you may encroach on some vegetative wetlands, correct?

Ms. Teachout: That's correct.

Ms. Murphy: Have you considered or spoken with anybody on the conservation commission to see if there would be a problem?

Ms. Teachout: In answer to that, there is an Order of Conditions that has just been closed on this property when it was developed. At that point in time, there was an Order of Conditions that, basically, said that where that fence line exists on the site, at this point, which is this area here, there was to be no disturbance beyond that fence line. So, have I gone in and fought with them on this? No, I have not because I have an Order of Conditions that says that's what they agreed to when this was developed originally.

Ms. Murphy: That's my next question. When was this project originally developed?

Mr. Walsh: We've been in there 3 years come October. It was an existing lot. I bought the parcel and the developer was already there.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Sir, just your name for the record?

Mr. Jean-Baptiste: My name is Edwige Jean-Baptiste.

Mr. Salerno: Yes, sir.

Mr. Jean-Baptiste: I'm located at number 5, a neighbor of Mr. and Mrs. Walsh. I'm not here to go against his plan of putting in the pool, but we've talked on many occasions about landscaping. The lack of having that beforehand doesn't prevent me from not envisioning the hardship of reselling the house when the time comes. So, I would like a better discussion with Mr. Walsh on a landscape design.

Mr. Salerno: All right. You want to know what the landscape buffer is going to be, sir?

Mr. Jean-Baptiste: Well, yes. And what kind of cosmetic landscaping.

Mr. Salerno: What would you like to see there? Do you want some evergreens or something that's going to block the view?

Mr. Jean-Baptiste: Pretty much.

Mr. Salerno: Would that satisfy you? I mean, is that what you'd feel comfortable with in the landscape design, some type of evergreen buffer? There's going to be a fence there.

Ms. Blackwood: There are a couple of concerns that I have.

Mr. Gordon: Who are you?

Ms. Blackwood: Joann Blackwood. I'm sorry. I live at 5 Rockwell Drive. In a prior discussion that I had with Mr. Walsh, he said that we could work some kind of decorative landscaping and things like that. The last time we came, his representative, which was not this lady, it was someone else, he showed us a plan. The plan basically came, I'm not sure of the footage, but it came very close to the property line. So, with that said, I was wondering where would the landscaping come into play.

The other concern that I have...

Mr. Salerno: Well, let's try to answer each question one at a time. Do you want to know if the landscaping is going to take place on his lot or yours?

Ms. Blackwood: Oh no, he had already said that it would take place on his lot.

Mr. Salerno: Okay.

Ms. Blackwood: When I saw the plan itself, the one his other representative had, it didn't show any room for landscaping. So, that's where my question was.

Also, we have concerns about the resale of the property. The way the property is set, whether you're in the driveway or on my property, there are different levels. I actually have some pictures.

Ms. Blackwood presented the pictures to the board.

Whether you're in the driveway or in the walkway, we're basically above their property because it goes down into a slope. In looking into this a little deeper, I got a professional example of what could take place, what possibilities that could hurt us. I have that. So, if they were to go through with this, there would be a lot of things that, to me, would have to be considered with Mr. Walsh.

Mr. Salerno: Okay. So, your concern is, if he puts a pool in, it's going to adversely affect the value of your home?

Ms. Blackwood: Right.

Mr. Salerno: Somebody gave you an opinion to that effect?

Ms. Blackwood: Right.

Mr. Salerno: Do you want to present that?

Ms. Blackwood presented the document to the board.

Ms. Blackwood: This shows the way the property is setup because it's on such an awkward angle. Right here is from where we are. If you're standing on the ground, that's the property over there. This is from the front yard and this is the property here. Also, once again, this is from our front yard. That's the property here. So, basically, this is our house. All of this frontage would be looking directly down onto the pool. So, there are a couple of things that could adversely affect the resale of the house.

Ms. Murphy: So, your concern about the landscaping is actually what you're going to be looking down at, not the border landscaping between your property and theirs?

Ms. Blackwood: Well, actually, both because he was telling me that he was going to do a certain type of landscaping. When I saw the plot plan that they had, I didn't see any room for that. So, that's what I was questioning. That prompted me to ask for professional opinions.

Ms. Murphy: It does appear that, if the pool is within 8 ft. of the boundary line, there is not going to be an awful lot of room between the pool, given where the fence and your property line is. It doesn't look like there's going to be any room for landscaping between the actual fence and your property line.

Ms. Blackwood: That was my initial concern.

Ms. Murphy: That's the point for the request for the variance, I think. So, any landscaping, I would guess, is going to be done on your property in from the fence, correct?

Mr. Walsh: As much as possible, I would do the landscaping on my property. I told Joann and Ed that I would also work to develop a plan for them if we had to do it on their property as well to put some type of buffer up. We would do that. We didn't have an actual plan of the landscape design because I'm trying to take just one step at a time.

Ms. Murphy: No, no. What I'm trying to figure out is what the concerns are. What the buffer is going to be between the pool and your property as well as what you're looking down on, correct?

Mr. Gordon: Ron, in deciding on a variance, we're deciding on a hardship and not what the result in somebody selling a house might be. Is that correct? We're citing a hardship, if there is one?

Mr. Alarie: Well, you know that there are basically 3 criteria; the hardship, the derogation from the bylaw and the detriment to public welfare.

Mr. Gordon: Okay.

Mr. Alarie: You also generally take into account the impact on abutting properties.

Mr. Gordon: Taking the value of somebody's house, that's really not taken into account formally in a variance, is it?

Mr. Alarie: Well, one of the premises of the bylaw is to protect property values.

Mr. Gordon: Right.

Mr. Alarie: In terms of reducing what's provided in the bylaw, the minimum requirements indirectly take those into account.

Mr. Gordon: I'm just curious. Can I see that?

Ms. Teachout: Mr. Chairman, may I make a suggestion? Would it be possible to continue this meeting to your next meeting so that I would have the opportunity to sit with the abutter to come up with some type of landscape design plan that would be acceptable to them?

Mr. Salerno: If you think it's necessary. I don't think it's necessary.

Ms. Teachout: Okay.

Mr. Salerno: Mr. Walsh has been here once before. Certainly it's his option. The main concern seems to be having some type of tastefully done landscape barrier.

Ms. Teachout: I'm quite sure we're going to address that.

Mr. Salerno: We can even incorporate that in the decision.

Ms. Teachout: Yes.

Mr. Salerno: I'm comfortable addressing it, but certainly it's your prerogative. I mean, I just don't want to keep having Mr. Walsh come back taxing the agenda.

Ms. Teachout: All right. Then we'll basically take our chances and ask for the vote.

Mr. Gordon: Well, that's what I want to decide on.

Mr. Salerno: Folks, is your main concern to have some type of barrier that screens the pool as best as possible from your view or are you just against it all together?

Mr. Jean-Baptiste: I don't think we're against it.

Mr. Salerno: Okay, but we want to address your concerns too, because you are abutters. We give a lot of weight to that, as Mr. Gordon said, so it's important to know what your needs are. If we were to consider this and as part of our decision we can build into it a requirement that there be privacy fencing and I say "evergreen." Mr. George is the

expert in that area, could you put up some type of green trees that are there year round as opposed to leaves? Is that something that would address your concerns?

Mr. Jean-Baptiste: Pretty much.

Mr. Salerno: We try very hard to try and get the parties together and get you what you need and want as landowners and also Mr. Walsh.

Mr. Jean-Baptiste: We're not here to prevent him from his enjoyment.

Mr. Salerno: You're most gracious.

Paul, what would you suggest?

Mr. George: I'd say a privacy fence in this section and just incorporate some evergreens, a hemlock and stuff like that.

Mr. Salerno: Mr. George has made a suggestion that at the closest point that there be incorporated into your fencing a privacy fence, solid part, that would blend with some evergreen trees or some other plantings that go along that to provide privacy to your neighbors and also meet the requirements of fencing. If that's made part of this decision, is that agreeable to you folks?

Ms. Teachout: Yes. It's agreeable to us.

Mr. Salerno: Thank you so much for coming. Your input is very valuable. We're going to take it under advisement and may incorporate some of those concerns in our decision. We'll notify you of our decision.

Decision

On September 14, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Timothy Walsh, 7 Rockwell Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the installation of an inground swimming pool 8 ft. from the side lot line of property located at 7 Rockwell Drive.

The appellant's property is located on the southerly side of Rockwell Drive and has a significant portion of its land area encumbered by wetlands. Its upland area is further constrained by a 10 ft. drop in elevation from road grade down to the wetland area. These conditions severely restricted both the placement and the size of the dwelling that Mr. Walsh was capable of constructing upon this lot. He now proposes to install an inground swimming pool to the rear of his home where there is very little upland area and seeks relief from the 30 ft. minimum side yard requirement.

Upon review of this appeal, the board found that the constraints imposed by the lot's aforementioned wetland and topographical conditions imposed a substantial hardship to the appellant in his attempt to site a swimming pool in conformance with the applicable

minimum side and rear yard setback requirements. It was their opinion that, in this instance, the granting of the relief requested would not seriously derogate from the intent of the Zoning Bylaw and that its installation with additional screening and landscaping would not adversely impact the welfare of either the general public or area residents. They, therefore, unanimously voted to grant the appeal subject to the requirement that a landscape plan showing the fencing, plantings and related features to be developed adjacent to the side lot line where the setback has been reduced shall be submitted to the board for approval.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Kevin and Maureen Jarvis, 2 Silver Gate Circle, Shrewsbury, MA.

PURPOSE: To hear the appeal of Kevin and Maureen Jarvis, 2 Silver Gate Circle, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the construction of a storage shed 6 ft. from the sideline of Elm Street and 1 ft. from the side lot line of property located at 2 Silver Gate Circle. The subject premises is described on the Shrewsbury Assessor's Tax Plate 32 as Plot 280-1.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on August 30, 2004 and September 6, 2004.

Mr. Salerno: Please identify yourselves for the audio record and make your presentation.

Ms. Jarvis: Good evening Mr. Chairman and members of the board, my name is Maureen Jarvis. I'm here with my husband, Kevin Jarvis. We reside at 2 Silver Gate Circle.

We're here to ask for a variance for a storage shed for our property. I've brought some pictures of our property. I have larger plot plans also.

Ms. Jarvis presented the pictures and plot plans to the board.

Mr. Gordon: The utilities that were put in the ground, were you planning this back then? It looks like you've got utilities coming up or a pipe coming up.

Ms. Jarvis: That's for our irrigation system. That's a well.

Mr. Gordon: Oh, that's a well? Oh, okay. I thought that was conduit.

Ms. Jarvis: That wasn't planned for the shed.

Mr. Gordon: Okay.

Ms. Jarvis: We decided that we needed to have a shed. When we went into the yard and did some staking and talked to a company that was going to deliver it, we realized that we had an issue with delivering the shed. The way our house sits, our first issue is that we have 2 front yards. We have frontage on Elm Street and we have frontage on Silver Gate Circle. When you come around Silver Gate Circle to the front of our house, around to the side of our house where we would probably rather have had access for the shed, there are rocks. There is a large hill. We have a row of pine trees or bushes that are close to our house. There is no way that a shed can be delivered because of the grades of the yard, the topography and the fact that those bushes are very close. We couldn't get the truck back there. We can't get the truck to the backyard with the shed.

Mr. Gordon: So, you'll be delivering it through house 86?

Ms. Jarvis: No, actually we're going to come around the corner of Elm Street, enter Silver Gate Circle and, just to the right of our driveway, the truck can pull in to the right of our driveway to the right of where our garages are on those photos and then to the back to where the well is. We have some stakes that I've taken photos of. They're in the photos as well.

Mr. Salerno: That's the photo here?

Ms. Jarvis: Yes. The people that live at 86 Elm Street, Karen and Craig Sande, we've spoken to them. We share our common line. They have no problem with us putting our shed in this location.

Mr. George: Would you propose doing any screening?

Ms. Jarvis: Oh, sure, like bushes, Rose of Sharon or lilacs or something? Do you mean behind the shed or to the Elm Street Side?

Mr. George: Yes.

Ms. Jarvis: Absolutely.

Mr. George: Okay.

Mr. Salerno: We'll have to put that in our decision. How many feet off the line do you want that? Do you want pine?

Ms. Jarvis: Actually, the way that the shed is going to be is kitty cornered. There's a stone wall there as well. There is plenty of room to place bushes or again, something. I

don't know if you were looking for something that would flower or if you would look at something that was evergreen. There is room there to put whatever you might suggest.

Mr. Jarvis: There are actually trees that go from Elm Street that are going to block the view of that shed anyway when the foliage is there.

Mr. Gordon: There's a wall that's there also. That's an original wall?

Mr. Jarvis: That is correct.

Mr. Gordon: That was the old Borgatti farm wall that was on their land?

Mr. Jarvis: Yes.

Mr. Gordon: So, that's going to be blocking it.

Ms. Jarvis: Yes. The wall comes up probably 3 ft.

Mr. Jarvis: It comes up 3 or 3 ½ ft.

Mr. Gordon: Yes.

Mr. Salerno: The shed's going to be a little higher than that.

Mr. Gordon: Ten feet?

Mr. George: How big is the proposed shed?

Mr. Jarvis: It's 8 x 14.

Mr. Gordon: Ron, what size do you not need anything with?

Mr. Alarie: Any structure up to 200 sq. ft., such as a storage shed, has to be placed in the side or rear yard 10 ft. minimum from any property line. Up to 120 sq. ft., there's no permit, but you still have to maintain that 10 ft. setback.

Mr. Salerno: Okay.

Mr. Rosen: You said that it's 8 x 14?

Mr. Jarvis: Yes, 112 sq. ft.

Mr. Gordon: The only house is back there?

Ms. Jarvis: Right. We do have neighbors across the street.

Mr. Gordon: On the corner of Selina?

Ms. Jarvis: On the corner of Selina, right. There's one house across from our side yard.

Mr. Gordon: And there's one down further on the corner of Elm.

Ms. Jarvis: Right.

Mr. Jarvis: That's correct.

Mr. Gordon: There's no one directly across from this?

Mr. Jarvis: No.

Ms. Jarvis: I think that the front door of the house that you're thinking of is forward a little. The shed will be behind them a little bit. So, I don't think it's going to completely obstruct their view.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On September 14, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Kevin and Maureen Jarvis, 2 Silver Gate Circle, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the construction of a storage shed 6 ft. from the sideline of Elm Street and 1 ft. from the side lot line of property located at 2 Silver Gate Circle.

The appellants' home is located at the corner of Elm Street and Silver Gate Circle and fronts upon the latter street. They propose to install a storage shed upon their lot that would be positioned to the rear of their attached garage somewhat adjacent to the sideline of Elm Street. The board noted that, due to the very unique configuration of this parcel and its topography, the application of the literal requirements of the Zoning Bylaw imposes a severe hardship to Mr. and Mrs. Jarvis in their attempt to site such an ancillary structure upon their property. It was their opinion that the placement of the shed as proposed would not significantly depart from the intent of the bylaw or create any condition which would adversely impact the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Robin Houde, 211 South Quinsigamond Avenue, Shrewsbury, MA.

PURPOSE: To hear the appeal of Robin Houde, 211 South Quinsigamond Ave., Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front and Side Yard Requirement, Residence B-2 District, to allow the construction of two detached garages 20 ft. from the sideline of South Quinsigamond Ave. and 3 ft. and 6 ft. from the side lot lines of property located at 211 South Quinsigamond Ave. The subject premises is described on the Shrewsbury Assessor's Tax Plate 45 as Plot 178.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on August 30, 2004 and September 6, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Ms. Houde: My name is Robin Houde. I live at 211 South Quinsigamond Avenue in Shrewsbury. I own a duplex there.

Recently, my neighbors to the left of me at 207 South Quinsigamond Avenue removed a bunch of trees. It just opened up the property so that there really is no privacy in the front. So, I would like to propose putting the garage there for my tenant. I then would also put one on my side for myself which would allow taking up a big piece of the property over there. I would be selling the shed that I currently have on my property.

I would like to present these photos.

Mr. Salerno: Sure.

Ms. Houde: I don't know who I should give them to.

Mr. Salerno: Just bring them right up. Mr. Gordon usually starts them.

Ms. Houde presented the photos to Mr. Gordon.

Ms. Houde: I would also like to point out, to my knowledge as I go to my mailbox just about every day or so, that there's a new mark here on my driveway. I just became aware of it within the last couple of weeks. I've never noticed it before. It's marked here. It's in white. It's a metal pin. I don't know what the reason for that is. That was never there. There is a metal rod. The Atlas Land Survey did the survey on the whole property. I did present that when I did the variance that you have. That's from Atlas. I took pictures as well. This is my neighbor's house here where all of the trees were taken down. There was a row of arborvitaes here that blocked for privacy.

Mr. Gordon: Those were on his land?

Ms. Houde: That's on my land.

Mr. Gordon: The arborvitaes, though, were on his land?

Ms. Houde: No. That was my land. This is where the trees were.

Mr. Gordon: He took them off of your land?

Ms. Houde: Right. From what he explained, the realtor, Maria Smith, approximately 2 years ago sold it to him and said that, where the little stone wall is in the front, where that and that row of arborvitaes was, she assumed was the property line. I'm also a realtor here in town for Caldwell Banker. I never assume things like that. You never assume where the property line is.

Mr. Salerno: I'm sorry, but you're losing me. You're telling me somebody told him that it was okay to go on your land and cut the trees down?

Ms. Houde: The previous realtor, right, and they cut the trees down. He just thought that that was what the realtor had told him and just assumed that, since she told him that, that that was where the property line was.

Mr. Salerno: Did you own the property when he removed the trees?

Ms. Houde: I didn't know where the property line was.

Mr. Salerno: No. Did you own the property?

Ms. Houde: Oh, yes. I've lived there, actually, for over 13 years. I've been a Shrewsbury resident for over 22 years.

Mr. Salerno: You may want to talk to Mr. St. Pierre back there before he leaves.

Ms. Houde: Hi Rod. Yes, we have to talk.

Mr. Gordon: Is it a pin, a surveyor's pin?

Mr. George: That's what it sounds like.

Mr. Gordon: It sounds like a surveyor's pin.

Ms. Houde: Yes. Atlas Land Survey just recently did that survey.

Mr. Gordon: That's your survey or his survey?

Ms. Houde: Actually, I went over there and I presented my plot plan when they took down the trees. I said I really never needed to know where the lot line was on that side because I never had issues because there was a nice buffer.

You can see that they expanded their patio area right here in the picture. There are about a dozen of them that live there. They hang out the windows. They play crazy music. I'm quiet. I keep to myself. I've been there over 13 years.

Mr. George: Who did Atlas do the surveying for? Was it for you or them?

Ms. Houde: Well, it was for them. They hired them because I brought my plot plan over. I had a fence guy come and measure with a roller from what I have from when I bought the house. I told the owners there, the girl that translates a lot for them, that they need to get the survey. I said "Why should I pay for it, it's not my fault they cut down the trees?" So, they hired Atlas.

Mr. Gordon: You disagree with the survey?

Ms. Houde: No, not at all. After looking when the fence guy came to roll the lot line, that's where it ended, but nothing was marked when the fence man came.

Mr. Gordon: So, the fence that encroaches, is that yours?

Ms. Houde: No. That's the other side of the property on my side of the duplex. I'm sorry. This is the side where the neighbors live here with the 2 family. This is the single family home on the other side of me. That fence is a whole different story.

Mr. Gordon: This is the one with the white or is it over here?

Ms. Houde: The white is over here. We're looking at the property this way. It's kind of confusing.

Mr. Gordon: We're all getting confused.

Ms. Houde: Because it's a duplex and I applied for 2 garages, 1 for my tenant's side and 1 for my side. I live on the right side. If you're facing South Quinsigamond Avenue, when you're facing the house, on the right side is this big fence.

Mr. Gordon: They live towards Plot 13? Is that your side of the house?

Ms. Houde: Correct.

Mr. Salerno: Well, what are you doing about the fence that was illegally put on your property?

Ms. Murphy: Do you own both sides of the house or just one?

Ms. Houde: Yes, I do.

Ms. Murphy: You own the whole thing?

Ms. Houde: Correct.

Ms. Murphy: Okay.

Ms. Houde: It's confusing because I'm asking for 2 permits.

Ms. Murphy: Can I just ask you a question? Looking at this plot plan, whatever problem you're having with the neighbor and whether it's over here or over here, how does that relate to zoning?

Ms. Houde: Well, I'm applying for 2 garages.

Ms. Murphy: I understand that. This is your property?

Ms. Houde: Right.

Ms. Murphy: Why do I care about the problems that you're having with your neighbors? What does that have to do with it? I'm sorry, but I don't understand what that has to do with needing a variance.

Ms. Houde: Well, the reason for the garage is for the privacy issue from here because they took down all of those trees.

Ms. Murphy: So, you think that, by putting the garage within that setback, that would provide you with privacy?

Ms. Houde: Correct. Well, because where the driveway comes in, in order to put the garage up, it has to go back further or closer to where they just expanded their porch. Do you know what I'm saying?

Ms. Murphy: So, that's why you want it there?

Ms. Houde: When my tenant pulls in his driveway over here. My driveway is here. The driveways are 100 ft. long. You would have to pull in the driveway and then pull in the garage this way to block them out because their patio would have to look right at me. It's going to go right here. The patio is right there that they just expanded out. They didn't need a permit for that because it's a patio and is not considered a decking or something to that affect. They didn't need any requirements of a permit or sideline requirements.

Mr. Salerno: So, the historical background as to trees, fences, etc., you feel that one of the compelling needs you have is to re-establish the privacy that was once there? You feel that, by getting this relief and being able to position those garages where they're going to be placed, that would afford you that privacy again?

Ms. Houde: Correct.

Mr. Salerno: Is that a summation of what you just told us?

Ms. Houde: Yes, on that side. On the other side, on my side, the right-hand side, the purpose for the garage there is to take up most of that lot where I just have the storage shed and I would have my garage to put my car in.

Mr. Salerno: And, aesthetically, it would balance with the other one?

Ms. Houde: Right. The fence that's on the right-hand side of this property, which I did approach my neighbors recently in the last few months to tell them that the survey was being done and I had Atlas do the same survey since they did the other side and they knew where most of the markers were, they went ahead and I basically told them the previous owner that owned that property put a up that fence.

Mr. Salerno: We're okay with that. We understand why you want the garages there and those issues.

Ms. Houde: Right, but the fence was installed improperly. It's poor quality and I would also like to propose taking down that fence and sharing equally in vinyl fencing to make it look better.

Mr. Salerno: Okay, but that's not part of this.

Ms. Murphy: We can't do anything about that. That's your own issue.

Ms. Houde: That's fine.

Mr. Salerno: You have some other issues you need to explore about encroachments and things.

Ms. Houde: I know he's going to have an issue that he's going to bring up.

Mr. Salerno: Well, we'll get to that.

Ms. Houde: Okay, with water runoff. I just want to explain. His property, whether I put a garage there or not, I have a storage shed there presently. He's in a gully.

Mr. Salerno: Do you want us to look at those?

Ms. Houde: That's the fence. These are the garages that I'm proposing. This is a picture of the neighbor's property that took down all of the trees. That's the 2-family next to me on 207.

Mr. Salerno: Okay. Is there something else that you want to show me?

Ms. Houde: No. This is just landscaping that I was going to do with the property.

Mr. Salerno: These are stick built garages?

Ms. Houde: No. That's a modular, actually.

Mr. Salerno: Modular, I thought so. All right.

Ms. Houde: The company's name and everything is on the back as well as some notes. That's it.

Mr. Salerno: Okay. Thank you. Are there any questions Mr. Gordon?

Mr. Gordon: I am totally confused.

Mr. Salerno: It's not like you Mr. Gordon.

Mr. Gordon: No, I know.

Mr. Salerno: You usually grasp everything.

Mr. Gordon: Are we sure of the distance from the sidelines if we're not sure of the post in the ground?

Mr. Salerno: Well, no. I think there's a plot plan we're relying on here. It's been attached. It has the lines. The additions to them are really not relevant, whether the fence is there or not there. I'm not using that as the lot line. So, I'm just looking at the plot plan that's been submitted and going from that. The request is from there.

Mr. Gordon: Well, I hate to ask this question, but what is the hardship?

Ms. Houde: No privacy and there are a dozen of them that are living there. When I'm in my house, it would be to the right facing the road, I have the 2-family at 207 facing South Quinsigamond Avenue and there are quite a few of them that live there. They hang out the windows. They just sit in the window sills. They stare out at me if I'm doing my yard work. I'm not having any privacy. That would just kind of block them out. If they're on their newly expanded patio, it just provides privacy for myself and my tenant.

Mr. Gordon: So, you feel that you don't have quiet enjoyment of your property?

Ms. Houde: Oh, not at all.

Mr. Gordon: Your hardship is that you don't have quiet enjoyment?

Mr. Salerno: That's a good analysis. In each one of these that's submitted, the modular conception is that each of them is 2 bays?

Ms. Houde: Correct.

Mr. Gordon: How large are they?

Mr. Salerno: Here are the dimensions Mr. Gordon. Here you go.

Ms. Houde: Twenty-four by 28. If it's necessary to make it smaller, I think when I saw Ron I said 24 x 28, but they can customize it. If it needs to be smaller, it can be. We can go 24 x 26.

Mr. Gordon: I have another question. Why would not a privacy fence and plantings be more appropriate? Why wouldn't it be more appropriate?

Ms. Houde: On the side where they took down all of the trees? The land dips down right there. It dips down about 2 ½ ft. So, if I put the privacy fence where my actual lot line is, where you see the stakes that Atlas put in, if I put a fence there, even if I put an 8 ft. fence and they're standing on their newly expanded patio, they're already up about 4 ½ ft. They're still going to be able to tower over that fence. You'll still see their heads, half their bodies over there. So, it defeats the purpose of putting up a fence.

Mr. Gordon: She can go up 35 ft., can't she Ron?

Mr. Alarie: Excuse me?

Mr. Gordon: She can put one up that's 35 ft. tall, can't she?

Mr. Alarie: That's the general height limit in that district.

Ms. Houde: A 35 ft. fence, I mean, that's a little absurd. It's not like I live on a highway. Well, it's a little mini highway on South Quinsig.

Mr. Salerno: Your issue as to privacy, your privacy is going to be affected by the size of the garage and the garage only? It's not going to change much within the sense of you obtaining some blockage there. I think what Mr. Gordon's trying to suggest to you is that the size of this garage is going to be the size of your privacy. Between the street and the garage there would be no privacy and between the garage and the house, again, no privacy.

Ms. Houde: Well, I'm used to the flow of traffic on the street. I don't have an issue with that. When they're all out there, it's a little annoying. It's a little distracting.

Mr. Salerno: Okay. Is there anybody in attendance this evening that wants to comment on this petition? If you could, just give us your name for the record.

Mr. Iacovelli: Jeff Iacovelli. I'm at 217. We're on the right side if you're looking from the road.

Ms. Houde: That's where the blue shed is with the fence that's all wobbly that the previous neighbor put up with his drunken friends.

Mr. Iacovelli: The garage is going to be 20 ft. from the road?

Ms. Houde: Correct. I wouldn't obstruct you pulling in and out.

Mr. Iacovelli: It wouldn't obstruct us, but it would obstruct our view, somewhat, of pulling out.

Ms. Houde: No, because the shed's there right now.

Mr. Iacovelli: The shed is 40 ft. from the road. I'd be fine if the garage was 40 ft. from the road.

Ms. Houde: Yes.

Mr. Iacovelli: Twenty feet is too close, basically.

Mr. Salerno: All right, your concern is that the placement where it is would be too close to your property?

Mr. Iacovelli: Yes.

Ms. Murphy: What's the setback from the side area?

Mr. Alarie: It's 10 ft.

Mr. Iacovelli: Ten feet and 30 ft. would be fine.

Mr. Salerno: She wouldn't have to be here if she did 10 and 30.

Mr. Iacovelli: Right. That's what I was telling her.

Ms. Schilke: I would have to look down the road. Where we have to live, it is very hard to pull out of the drive.

Mr. Iacovelli: The sight lines on that road are terrible already.

Ms. Schilke: People can't see coming out of the other side. We have trouble getting out of our side.

Mr. Gordon: How close to the street is your house?

Mr. Iacovelli: Our house must be about 40 ft. I think it's 40 ft.

Mr. George: From the looks of it, if those garages were put closer to the house, I think you would increase your privacy, wouldn't you?

Ms. Houde: Closer to my house?

Mr. George: Yes.

Ms. Houde: No, because then I'm going to have to be removing other objects, huge hemlocks, a turn-around spot I have both on my side for myself and my tenant. I don't know if those are also in the pictures. I think they are in the photos that I took. A turn-around spot is somewhat necessary on that street because it is hard backing in and out of that property because people just go faster than the 25 mph speed limit. You've got tractor trailers whipping up and down there and cars day and night. It is a tough road. There's no question about that.

I had BGI Modular Properties Construction come out. They were out this morning at my property. We measured it. Where we measured where the garage would go, I believe we measured 24 ft. So, there was plenty enough room for visibility. I mean, I would like to see if we could compromise. If we can't do the 20 ft., then it could be, you know, made more. I mean, it's a building structure that can be modified with, you know, any requirements that are agreeable. It doesn't have to be 24 x 28. Like I said, we could go 24 x 26. I could push it over more to my turnaround spot.

I know that you do have legitimate issues with the water runoff, but what I could suggest, and I talked to the modular company this morning, is that I would put gutters on. Regardless if it comes off of the roof of my shed or the garage, it would be the same.

Mr. Iacovelli: Oh, that's fine.

Ms. Houde: You live in a gulley. You live down low.

Mr. Iacovelli: Yes. That's not really what the issue is.

Ms. Houde: There's not much I can do about that.

Mr. Iacovelli: That's not a big issue for me. It's the 20 ft. from the road. That's my biggest issue.

Ms. Houde: Right, because I know that when I came out to talk to you about the issue with the fence, you really didn't have much to say about that.

Mr. Salerno: All right. Go ahead ma'am.

Ms. Schilke: I just want to ask one other question. When your proposal said that it was going to be 3 ft. from one side and 6 ft. on the other side, which side is which?

Ms. Houde: Oh, that's the other side. That's the neighbors in back.

Ms. Schilke: Are we the 6 ft.?

Ms. Houde: No, you're 10 ft. on the sideline. So, that's not the problem. The other one was where the other neighbor is who cut down all of the trees. In order for my tenant to still have a turnaround spot to come in from the driveway and to go into the garage, the

garage would have to go back further. So, there will only be 3 ½ ft. from the lot line on that side.

Mr. Iacovelli: Right.

Ms. Houde: So, it doesn't affect your lot line.

Mr. Iacovelli: Okay.

Mr. Gordon: Ms. Houde, if you were 10 and 30 on that side, we wouldn't have to be here for that one.

Ms. Houde: But, that means the garage is not going to be adequate. If I have to go even smaller, I could do that.

Mr. Gordon: It goes back 10 ft. You're only taking off 4 ft. there.

Mr. Salerno: Well, I think if that one fit, Mel. I think what she's trying to do is to have some symmetry there, balancing it.

Ms. Houde: Yes, exactly.

Mr. Salerno: That's why one of them, even though it could fit in without the request, it wouldn't be balanced with the other.

Ms. Houde: I don't know if it has to be the 30 ft. or if it could be 25 ft. or something within reason.

Mr. Gordon: For no variance, it has to be 30 and 10.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Is there any thing else from the board? Nothing else from the parties in attendance? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On September 14, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to deny the appeal of Robin Houde, 211 South Quinsigamond Ave., Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front and Side Yard Requirement, Residence B-2 District, to allow the construction of two detached garages 20 ft. from the sideline of South Quinsigamond Ave. and 3 ft. and 6 ft. from the side lot lines of property located at 211 South Quinsigamond Ave.

The appellant owns and resides within the two-family dwelling situated upon the subject premises and proposes to construct two detached garages, one to each side of the building, with each structure positioned within the minimum front and side yard setbacks

of 30 ft. and 10 ft., respectively. As presented by Ms. Houde, the primary reason for siting the garages as proposed was to provide screening from the abutting properties.

Upon review of this appeal, the board noted that there are no conditions affecting this property relating to its size, shape or physical characteristics that created an undue hardship to the appellant. In fact, they found that the proposed garages could be constructed upon the lot in conformance with the aforementioned setbacks and concluded that, in this instance, the granting of the four variances requested would seriously derogate from both the intent and the purpose of the Zoning Bylaw. Finding that the appeal did not satisfy the statutory requirements set forth in Chapter 40A for the issuance of such relief, they, therefore, unanimously voted to deny the appeal as presented to the board.

Vote

Mr. Salerno	No
Mr. George	No
Mr. Gordon	No
Ms. Murphy	No
Mr. Rosen	No

PUBLIC HEARING: Donald F. and Sandra E. Hooper, 19 Main Circle, Shrewsbury, MA.

PURPOSE: To hear the appeal of Donald F. and Sandra E. Hooper, 19 Main Circle, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Frontage Requirement, Residence B-1 District, to allow the division of property located at 19 Main Circle into two lots with one lot having 99 ft. of frontage. The subject premises is described on the Shrewsbury Assessor's Tax Plate 23 as Plot 324.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on August 30, 2004 and September 6, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Hooper: I'm Don Hooper.

Ms. Hooper: I'm Sandy Hooper.

Mr. Hooper: Good evening Mr. Chairman and members of the board. This is for a variance from the 100 ft. requirement where we found that we had 99 ft. We're 1 ft. short of that 100 ft. requirement. That's for a buildable lot on Main Street.

Ms. Murphy: Ron, isn't it 125 ft. that are required?

Mr. Alarie: No.

Ms. Murphy: It's 100?

Mr. Alarie: It's in a B-1 District where 100 ft. are required.

Mr. Salerno: There are plans that are submitted. There's one attached and then there's another one with a pool on it.

Mr. Hooper: The pool exists. The shed shown in that second plan is not in that location. It's right next to the side of the pool.

Mr. Salerno: So, basically, you want to cut your lot in half?

Mr. Hooper: Yes.

Mr. Salerno: And sell the back half?

Mr. George: What point is the access for that, Ron? Is that Main Street?

Mr. Rosen: Yes, Main Street.

Mr. Alarie: The frontage would be along Main Street. If they provided access there, that would be through the Mass Highway. That's a state road.

Mr. Gordon: There's a culvert or a stream that goes from the road into your property on, I would say, the west side of the lot. Is that yours or is that wetland? Is it a stream?

Mr. Hooper: It's just to the east of our property.

Mr. Gordon: It looks like it's on the corner of your property.

Mr. Hooper: I would say that it's just to the east, yes. It's the east side, going toward Northboro.

Mr. Gordon: Okay, all right.

Mr. Rosen: So, do you understand that, for a variance, the burden is on you to provide a hardship?

Mr. Hooper: Yes.

Mr. Rosen: So, the question would be what's the hardship?

Ms. Hooper: We have to provide a hardship?

Mr. Rosen: Yes.

Ms. Hooper: To have a buildable lot?

Mr. Salerno: To vary from the minimum requirements, yes.

Ms. Hooper: Oh.

Mr. Hooper: It was just that it was within 1 ft. of a buildable lot.

Mr. Salerno: Initially, when you had it, did you build the house that was on there?

Mr. Hooper: No.

Mr. Salerno: You purchased it?

Mr. Hooper: Yes.

Ms. Hooper: Right.

Mr. Salerno: When you purchased it, you knew it was only 1 lot?

Mr. Hooper: Right.

Ms. Hooper: Right.

Mr. Salerno: At some point, with the development down the street, you started to explore whether or not you could subdivide the lot into 2?

Mr. Hooper: Right.

Mr. Salerno: When you did that and explored it, you're a foot short?

Mr. Salerno: Right.

Mr. Salerno: The foot doesn't bother me as much as putting another house in there, forcing that house to enter and exit from Main Street and the topography of that and the business of that road. Your neighbors all enter from Main Circle?

Mr. Hooper: That's correct.

Mr. Salerno: I would be a little concerned because people coming up or going down making turns there, you're the only one that's going to empty out from that back side.

Mr. Gordon: At this time, it's the only one. There's a bunch of other back lots that are eventually going to come to us. Have you spoken with your neighbors on either side about buying a foot?

Mr. Hooper: Yes, they're willing to sell it to us.

Mr. Gordon: I would suggest that you buy a foot and ignore us.

Mr. Salerno: Well, you don't have to ignore us, but you don't need to come here for relief.

Mr. Gordon: No, but he doesn't have to come here if he has another foot. You'd still have to get Mass Highway to put a driveway in.

Ms. Hooper: How do you do that?

Mr. Salerno: Go see Mass Highway.

Mr. Gordon: I would hire some professional help to tell you how to go about that. We can't do that.

Mr. Salerno: Is there anything else? Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On September 14, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to deny the appeal of Donald F. and Sandra E. Hooper, 19 Main Circle, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Frontage Requirement, Residence B-1 District, to allow the division of property located at 19 Main Circle into two lots with one lot having 99 ft. of frontage.

In considering the appellants' proposal to subdivide their property to create a buildable lot fronting upon Main Street, the board found that there were no conditions affecting this property that would warrant the creation of a nonconforming lot. It was their opinion that the granting of the relief requested would not only deviate from the intent of the Zoning Bylaw but that it would also violate the statutory requirements set forth in MGL Chapter 40A relative to the issuance of a variance. It was, therefore, unanimously voted to deny the appeal as presented to the board.

Vote

Mr. Salerno	No
Mr. George	No
Mr. Gordon	No
Ms. Murphy	No
Mr. Rosen	No

PUBLIC HEARING: George and Lindsay Germanos, 6 Redwood Lane, Shrewsbury, MA

PURPOSE: To hear the appeal of George and Lindsay Germanos, 6 Redwood Lane, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Rural B District, to allow the construction of an addition 38 ft. from the sideline of Redwood Lane upon property located at 6 Redwood Lane. The subject premises is described on the Shrewsbury Assessor's Tax Plate 9 as Plot 30-8.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on August 30, 2004 and September 6, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Germanos: My name is George Germanos. I live at 6 Redwood Lane. My wife and I are proposing a bedroom addition with a 2-car garage under. The hardship is that there's actually a steep slope in the back of our property which includes a forested wetlands area. I've already checked with the conservation commission about distance from our construction to the wetland area. They don't have a problem with the construction itself. I have some pictures and some plans if you would like to take a look at them.

Mr. Salerno: Sure.

Mr. Germanos presented the pictures and plans to the board members.

Mr. Germanos: There's actually a down slope down from the driveway and then a pretty steep drop off.

Mr. Gordon: Yes. I've seen it. It drops back there too, right?

Mr. Germanos: Yes. It drops down approximately 18 ft. It's probably like a 60° angle from where the shed is. Where the shed is, it's actually the steepest sloped portion.

Mr. Gordon: Right. So, your hardship is with the topography of the land, correct?

Mr. Germanos: Exactly and because of the placement of the driveway downgrade down to our house. We set the addition 26 ft. out and it would only be about 4 or 5 ft. away from that. So, access will be limited to our side yard. The lot's actually boomerang shaped the way it is. You would have issues with the foundation being that close to the drop-off.

Mr. Gordon: Do you have a basketball league there? I noticed the hoop right in the right-of-way.

Mr. Germanos: Yes. The Harries have that there. Yes, we seem to have a lot of children in the neighborhood that think we do. That's fine with us.

Mr. Salerno: The pictures are very helpful and the diagrams here even more so.

Mr. Germanos: I tried to draw the setback from the slope and whatnot. I just gave you the best description of what's there.

Mr. Salerno: Do any board members wish to inquire?

Mr. Gordon: No. I went and looked at the property, Mr. Chairman. There is a severe hardship in the back. That's the only place you can put anything.

Mr. Salerno: He's on a radius, right, Ron?

Mr. Alarie: The lot fronts upon a cul-de-sac.

Mr. Gordon: Yes, one of the old, big ones.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On September 14, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of George and Lindsay Germanos, 6 Redwood Lane, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Rural B District, to allow the construction of an addition 38 ft. from the sideline of Redwood Lane upon property located at 6 Redwood Lane.

Upon review of this appeal, the board found that, due to the unique shape of the subject property and the severe drop-off in its elevation along its easterly boundary, there is no viable manner in which to expand the appellants' home other than as shown on the plans submitted to the board. It was their opinion that the reduction of the front yard setback towards the "bulb" of the Redwood Lane cul-de-sac would not materially depart from the intent of the Zoning Bylaw and that the construction of the addition, as proposed, would not adversely affect the welfare of either the general public or of area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Anthony and Carolyn Panarelli, 43 Bay View Drive, Shrewsbury, MA.

PURPOSE: To hear the appeal of Anthony and Carolyn Panarelli, 62 Worthington Ave., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the removal and the replacement of the single family dwelling situated upon property located at 43 Bay View Drive. The subject premises is described on the Shrewsbury Assessor's Tax Plate 57 as Plot 5.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on August 30, 2004 and September 6, 2004.

Mr. Salerno: Please identify yourselves for the audio record and make your presentation.

Mr. Carlo Panarelli: Yes. My name is Carlo Panarelli. We do have an existing structure that consists of approximately 1,000 sq. ft. of floor area. We're proposing a new structure that will have approximately 4,000 sq. ft. We do fit within all of the proper setbacks.

Mr. Salerno: You might want to use that easel over there, Mr. Panarelli.

Mr. Carlo Panarelli: Thank you. We're not asking for any variances for any of the setbacks. The construction we are proposing is going to stay within the setback lines. I don't know, basically, we do have some issues with our abutter, Joe Polito. He's kind of concerned with the grade or the lay of the land. I can understand what he's talking about. I think that, with proper planning and design, we can divert the water away from his property. I guess, basically, we understand that you need 11,000 or 12,000 sq. ft. and we only have about 8,000 sq. ft.

Mr. Gordon: Is this going to go straight up?

Mr. Carlo Panarelli: Yes.

Mr. Gordon: How many floors?

Mr. Carlo Panarelli: Two. It would be two plus the walkout basement towards the lake side.

Mr. Rosen: How many square feet did you say this was?

Mr. Carlo Panarelli: Approximately 4,000. It's still in the planning stage. It's approximately 4,000 or 4,500 sq. ft.

Mr. Alarie: Is that the total for the basement, first and second floors?

Mr. Anthony Panarelli: Yes.

Mr. Carlo Panarelli: Right.

Mr. Anthony Panarelli: That's counting the basement.

Mr. Salerno: You don't have to count the basement in square footage, do you?

Mr. Gordon: No, you don't.

Mr. Salerno: So, it's actually less than what you're suggesting.

Mr. Carlo Panarelli: Right, yes.

Mr. Gordon: So, it will be about 30 % of that.

Mr. Salerno: Is this a percentile coverage request, Ron?

Mr. Alarie: No. It's basically because of the lot size and the frontage. It's a nonconforming lot, again, typical of what we've seen in the Edgemere section when removing existing structures and replacing them. Once you remove a structure, you are not eligible for the statutory exemptions, the grandfather provisions, unless you first receive a special permit.

Mr. Salerno: Does that apply if they removed the entire structure or if they do it in sections? For example, if they left a wall up?

Mr. Alarie: Only if the reconstruction is in compliance. If any part of it is nonconforming, then you would have to seek the special permit to expand or modify that nonconforming situation.

Mr. Salerno: Even if you're staying within the setbacks that are there?

Mr. Alarie: If they are nonconforming, then yes.

Mr. Carlo Panarelli: Yes. Actually, what we're doing is, the existing structure is actually around 30 ft. from the water, we're actually pushing it 10 ft. further back.

Mr. Gordon: Toward the road?

Mr. Carlo Panarelli: Toward the road, correct.

Mr. Gordon: What are you going to do to mitigate the water that will flow down the side of the hill?

Mr. Carlo Panarelli: Well, like I say, we will be going through the conservation, going through what their laws and conditions are and what they are going to set forth. Right now, we're just trying to get this part of it done. We will be dealing with the conservation and see exactly what they will require. Obviously, whatever they require, that's what we will do.

Mr. Gordon: Okay.

Mr. Salerno: Do they have to go before the Lake Commission too?

Mr. Gordon: No. We only do what's in the water. We don't do the land. Conservation does the land. That whole neighborhood now has sewers, correct?

Mr. Carlo Panarelli: Yes. There is town sewer there. Right now, it has an old cesspool.

Mr. Gordon: That's a requirement to connect?

Mr. Carlo Panarelli: Absolutely.

Mr. Salerno: Are there any questions? Is there anybody in attendance this evening that wants to comment on this petition? Sir, just identify yourself for the record and make your comment.

Mr. Dyer: My name is Joseph Dyer. I own land beside his. He bought the land a little while ago. Someone has done a survey up there. I don't know if it was him or the bank or who it was. Now the line coming through from the water up to the street appears to be going through my land. I have 35 ft. on the street and 30 on the water. Now I don't know what he is intending to do there. I have never met the man before, but it looks to me like there's a question on the boundaries there.

Mr. Carlo Panarelli: Well, we did hire a professional surveyor, you know, a civil engineer, to do this and to actually get this signed plot plan of the property. I'm not here to say that you're right or you're wrong, but we did hire a professional engineer to get the bounds to describe this parcel.

Mr. Dyer: Well, we've had a parking lot there for 2 cars. The line is going through the parking lot now.

Mr. Carlo Panarelli: Right. I don't think that's even going to interfere.

Mr. Anthony Panarelli: I don't think it will be an issue.

Mr. Carlo Panarelli: It won't be an issue because, when I talked with my cousin, by the way, he is my cousin, we don't have to disturb that area.

Mr. Anthony Panarelli: It won't be an issue.

Mr. Dyer: Well, if you're going to run the boundaries from that line, it would be.

Mr. Salerno: I think the boundaries, whatever the issue is with the boundaries, is a private matter.

Mr. Gordon: The boundaries are what the boundaries are.

Mr. Carlo Panarelli: Right.

Mr. Salerno: A certified plot plan will establish where they are.

Mr. Carlo Panarelli: We're saying that we're not making you move your driveway. That is what we're trying to say.

Mr. Dyer: I'm saying that I believe that boundary is wrong, because if it isn't, then I've lost part of my lot.

Mr. Gordon: I think you ought to hire a surveyor then.

Mr. Carlo Panarelli: Right. That's what we did.

Mr. Dyer: Well, that's what I want to bring to your attention.

Mr. Salerno: Okay.

Ms. Murphy: We can't fix it.

Mr. Gordon: That's not our specialty.

Mr. Dyer: I understand that you can't set boundaries, but if you go by his boundary and you put a house from the boundaries that he has right there and they turn out to be wrong, then you have a problem.

Mr. Carlo Panarelli: It would be a big mess.

Mr. Gordon: Mr. Panarelli's boundaries right now are certified by Arthur Bouley, a registered land surveyor. Now, if you have somebody you want to hire who is a registered land surveyor, then we can have a discussion. But, right now, this is the only discussion we can have.

Mr. Salerno: I guess, Mr. Dyer, that it is your concern that you're bringing to our attention that you think there might be a boundary line dispute there so that when we're considering this request as it now appears, your feeling is that it may encroach even further onto your property because that's not accurate?

Mr. Dyer: Yes. I feel as though it will cause a problem there. I mean, I know he's telling me one thing right now, but if that 6 ft. that I'm talking about is correct, then you go from there 35 ft. over on the other side into Mrs. Johnson's property and now I'm into her driveway, their parking lot. So, something's wrong there someplace.

Mr. Salerno: That often is the case down there. I mean, I can't tell you otherwise. We've seen that over the years that those markers are moved. When roads are changed, oftentimes what you think aesthetically looks like your boundary turns out not to be your boundary. But, as Mr. Gordon suggested, if you have any question about it, the money's well spent on hiring your own surveyor. You should get a certified plot plan or an instrument plan. I probably think it's still the most accurate, Ron?

Mr. Alarie: It has to be a plan or survey done by a registered professional surveyor.

Mr. Salerno: Yes.

Mr. Anthony Panarelli: I know that Mr. Bouley spent a lot of time.

Mr. Carlo Panarelli: If I can, Mr. Chairman, I spoke with Arthur Bouley about this parcel. It was kind of an expensive layout plan because he had to go way back to find some more bounds and some more points to make sure that he was correct. When we saw the pins on his property, obviously, there was a question to make sure that he was correct. When I saw the bill, I kind of knew why it was so expensive, because he had to go so far back to chase all the bounds.

Mr. Salerno: You want us to consider your request as it's submitted with the plan?

Mr. Carlo Panarelli: Correct. Also, this is not, you know, the issue at this point.

Mr. Anthony Panarelli: We could let him further investigate. It's done, so he could use our paperwork.

Ms. Murphy: I just want to say that, if approval is given to your plan based upon the plot plan that you've given us and you're in error and he's mistaken, then it could be a very expensive mistake for him.

Mr. Carlo Panarelli: Yes, for Mr. Bouley. That's why we paid him. I'm not an engineer.

Ms. Murphy: It may be ultimately for Mr. Bouley, but it would be a very expensive mistake and you're quite correct, he would have no recourse really but to take it down. But, that's a risk he's willing to take and he's showing us a plot plan. We can only act upon the plan as it's provided to us. He runs the risk on the accuracy of it or not.

Mr. Salerno: So, it may be in your best interest, at some point, to get your lot squared away too.

Mr. Dyer: Oh, yes, I will have to get it down.

Mr. Salerno: But, their request is to take down what's there and put the improved building on there. If in fact the lot lays as it says it does, do you have any objection to that?

Mr. Dyer: No. I have no objection to him putting the house in. But, if that line is incorrect and he's so many feet away from the line and, like she says, it's found out later that they're too close to the line because it has moved, then someone's going to get burned here.

Mr. Salerno: Right.

Mr. Dyer: I only have 35 ft. in the front of my house.

Mr. Carlo Panarelli: Well, maybe we could work something out. Maybe we can give you an easement. I know you're worried about what he said or you said that, maybe down the line if we do get our building permit and we do something, maybe we can talk about giving you an easement for that 5 or 6 ft. so that you can sleep at night.

Mr. Dyer: I'm concerned.

Mr. Carlo Panarelli: I understand.

Mr. Salerno: Okay. Hey, folks, time out. We're just going to try and keep it on the issues that are before us. That sounds like it's something that can be worked out later on. You first want to establish that there is a problem. Right now, we're dealing with speculation here, at best. So, my thoughts are that, as long as you're satisfied Mr. Dyer that it is appropriate and you don't have any objections to the improvement in the building, then we can continue with his appeal.

Mr. Dyer: I don't mind the house going in there, it's just where it's going to go.

Mr. Salerno: Sure. That's a good concern.

Mr. Dyer: I only have 5 or 6 ft. on my side of the house. That's not much land there.

Mr. Salerno: Okay. So, you might want to investigate it on your own through a plot plan.

Mr. Dyer: Yes. There's no question about it.

Mr. Salerno: Okay. Is there anybody else here this evening that wants to comment? Sir, would you just tell us your name for the record.

Mr. Polito: Joe Polito, 2 Norcross Point. I have a couple of concerns on the southeastern side of the property that abuts my property. These elevations are a lot higher than my elevation over here. I'm concerned with such a big house being put on such a small lot. The shoveled snow, the rain, where is it going to end up? I've got a foundation problem as it is over there. I'm concerned about the rain and all the water coming downhill coming into my land around my foundation.

There's another piece. The land comes together funny down there. Where our properties come together, it's very hilly down by the water. I've got a stone wall, a dry block wall,

that I installed that goes right into the property line of his property. If they excavate that, what's going to stop my wall from falling down because the contours of the land slope quite a bit over there? I put a block wall up there to hold it up. Now they want to dig it out.

Mr. Salerno: Dig it out, why?

Mr. Anthony Panarelli: We don't want to.

Mr. Polito: For the house. There's a second wall there. Where they're going to have to dig out, there's a second wall past the water. I don't see the wall on the print. So, is that wall coming out? Basically, my dry wall goes into that old stone wall that's there.

My main concern, like I said, it putting such a big house on a small property line. I've got 7 ft. from my fence and he's going to be 10 ft. off my fence. There's a walkway coming down here, I imagine. Where's all the shoveled snow going to go? If they pile up the shoveled snow against my fence, it's going to thaw, it's going to go right into my foundation and I'm going to have more water problems over there or it's going to run into my yard. That's my concern. Likewise, up here at the parking lot if this parking lot's going to abut my land here, is the water going to run off down into my driveway and cause an icy condition all winter long? You know, with the weather around here, it's freezing one day, it's 50 the next day, freezes that night, what's going to happen with all the water? I'm concerned about the ice-up.

Mr. Anthony Panarelli: I understand your concern.

Mr. Polito: Those are my concerns.

Mr. Anthony Panarelli: I understand your concern. What I'm saying is that we're not going to be able to change the grade of the property. It's a slope there. You can't really get away from it. We're right at the top of the hill there, really. So, all the rain does end up in your driveway. But, what I'm saying is that, if we do build the property there, of course the slope of the roof goes to the back towards the lake and from the top of the lot to the back of the lake. It doesn't go to the left. It goes straight back. So, if I can keep the water on my plot, I will.

Mr. Salerno: Are you going to have gutters and downspouts?

Mr. Anthony Panarelli: Yes, of course. I understand about the water situation because it's there now without the new house.

Mr. Polito: It's going to be very tight over there.

Mr. Anthony Panarelli: Yes.

Mr. Polito: My other concern, Mr. Panarelli, is my wall that's attached to the wall that you're going to pull out.

Mr. Gordon: Mr. Chairman.

Mr. Anthony Panarelli: Why would we pull it out?

Mr. Gordon: Can I get involved in this conversation?

Mr. Anthony Panarelli: Sure.

Mr. Gordon: Mr. Panarelli, would you be willing to put downspouts discharging directly into the ground?

Mr. Carlo Panarelli: Yes, through a recharge system.

Mr. Gordon: A recharge system that would take all of that roof drainage into your land.

Mr. Carlo Panarelli: Absolutely. That's the easiest part of the whole job. Yes, absolutely, we'll do a recharge system right into the ground.

Mr. Polito: My main concern wasn't the roof water. The roof is the opposite way.

Mr. Carlo Panarelli: I see. He's talking about the surface water that comes running off of your parking lot.

Mr. Polito: And the 3, 4, 5 or 6 ft. of snow that you get in the wintertime. Where's it going to go? It's only 10 ft. Where are you going put all that snow?

Mr. Carlo Panarelli: We're on this lake. All the house lots are on top of each other. Everybody seems to manage. Since we've been kids, we've got a whole lake that we've grown up on that people have problems with snow and they manage if you get 20 ft. or if you get 2 ft. But, you deal with it. We're obviously not going to dump the snow on your property. I'm sure that.

Cosmetic-wise, the house that we're putting here, we're going to put something nice to border that water and make sure that water runs to the lake, any surface water that runs down there. The last thing I want to see, he's my cousin and you're my friend, is for me to dump water onto your house lot.

Mr. Polito: I'm just concerned. You're telling me now and then the house goes up and then I'll have to deal with it.

Mr. Carlo Panarelli: I'm telling you myself that if I'm...

Mr. Salerno: All right folks, we've got a little rule of order.

Mr. Carlo Panarelli: Yes, sir.

Mr. Salerno: So, we're going to try and bring it to an end.

Mr. Carlo Panarelli: I know.

Mr. Salerno: You need to address your comments to the board.

Mr. Carlo Panarelli: I was just talking to a friend.

Mr. Salerno: Yes, and I'm glad you guys are trying to do that. You can do it before the meeting and after the meeting. As far as any disturbance of a support structure, there are rules and laws that relate to that.

Mr. Carlo Panarelli: Right.

Mr. Salerno: And the grading and the slopes, again Mr. Polito, that will have to be dealt with when they construct there. As far as surface runoff, I'm sure there can be provisions made near those parking areas with drywells or burying some crushed stone.

Mr. Polito: Well, that's my only concern because, like I've said, I've had a foundation problem in the house for a little while and I don't want it to get any worse there.

Mr. Salerno: Sure, okay. Well, I mean, those are some issues that certainly can be addressed. They're not encumbering their development. It's not expensive to bury some drywells and things of that nature that will address that. I mean, Mr. Gordon's kind of an expert on that.

Mr. Gordon: Ron, are there surface drains in that area on Bay View?

Mr. Alarie: Probably not in that stretch of Bay View Drive.

Mr. Gordon: I wouldn't think so.

Mr. Dyer: Do you mean street drains?

Mr. Gordon: Yes.

Mr. Dyer: There are in Edgemere.

Mr. Carlo Panarelli: Elevation-wise, it would never work.

Mr. Gordon: Okay, I was just asking a question.

Mr. Carlo Panarelli: No. I walked the street and I saw what's there. Elevation-wise, there's no drainage that would work. Like you said, the only proper way to do it is to do a 6 ft., 8 ft. diameter drywell.

Mr. Gordon: Are the laws on building the same as the laws in the subdivision, that you can't increase the amount of runoff from before to after?

Mr. Alarie: No, not on a single lot like this.

Mr. Dyer: I just have one question. On the north side, how close are you to the house on my lot?

Mr. Carlo Panarelli: Well, from what I see, you're on this side and we're on the right side, correct? So it's 10 ft. from the line and you're 15 ft. from the structure, the new proposed structure.

Mr. Dyer: On my side of my building?

Mr. Carlo Panarelli: Yes, on your sideline, on your property line. Excuse me, on your property line. I'm sorry.

Mr. Dyer: I'm sorry, you mean 15 ft.

Mr. Anthony Panarelli: He's on the other side, right?

Mr. Carlo Panarelli: No.

Mr. Anthony Panarelli: The lake is up here.

Mr. Carlo Panarelli: Yes, okay. It's 15 ft. Like I say, we're not here to create a problem. I know you people have been there a long time. We're not here to hinder anybody. We're willing to work and do whatever it takes to keep you happy and make it work.

Mr. Anthony Panarelli: To make it work.

Mr. Salerno: I think we have a sense of what the issue is. Are there other residents here who want to comment on this? Okay. Well, we'll take it under advisement, we'll notify you of our decision and we'll give appropriate weight to all the comments. Thank you gentlemen. You can retain those diagrams.

Decision

On September 14, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Anthony and Carolyn Panarelli, 62 Worthington Ave., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the removal and the replacement of the single family dwelling situated upon property located at 43 Bay View Drive.

The subject premises, which was developed well before the adoption of zoning in Shrewsbury, is nonconforming in several regards, most noticeably its size as it is only 8,480 sq. ft. in area. There is a relatively small single family home upon situated upon the property which the appellant proposes to remove and to replace with a new dwelling that would be sited upon the lot in compliance with the minimum front, side and rear yard setbacks.

It was the board's opinion, after reviewing the appellant's plans and presentation, that the redevelopment of this parcel would result in a more zoning compliant property without materially altering its most prominent nonconforming features and that its reconfiguration could improve adverse drainage conditions affecting abutting properties. Furthermore, they found that the new structure, when completed, would compliment the general character of many of the other properties situated within this section of the Edgemere neighborhood. It was, therefore, unanimously voted to grant the appeal subject to the following conditions.

1. The grading of the lot shall be arranged so that surface water is directed away from the abutting parcels and towards the rear of the property.
2. The new dwelling roof system shall include gutters and downspouts with the downspouts connected to a subsurface recharge system(s).
3. The off-street parking area, if paved, shall be equipped with a subsurface drywell(s) with the grading of said parking area directed towards the drywell(s).

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes

PUBLIC HEARING: Linda L. and Alfred C. Acciardo, 88 Old Faith Road, Shrewsbury, MA.

PURPOSE: To hear the appeal of Linda L. and Alfred C. Acciardo, 88 Old Faith Road, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the removal and the replacement of the single family dwelling situated upon property located at 88 Old Faith Road maintaining the existing setbacks of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 52 as Plot 24.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on August 30, 2004 and September 6, 2004.

Mr. Salerno: Counsel, please identify yourself and your clients and make your presentation.

Atty. St. Pierre: Attorney Rod St. Pierre and with me are Fred and Linda Acciardo. Also with me is Frank Tomaiolo, who is the builder and who is going to be building the dwelling there. The publication is a little bit off because we are not going to maintain the existing set backs. That's the whole purpose of this. Basically, we have a pre-existing, non-conforming lot. It meets all the requirements of zoning.

Mr. Salerno: How is it advertised?

Attorney St. Pierre: I know that the application was to remove the home and rebuild it on the same lot. It currently is a legal non-conforming lot. So, the set back, again, we're going to be moving things over. We would not have to be here really if we were just to renovate what's there because it would comply with zoning.

Mr. Salerno: Give us a minute to check the application and the advertising.

Mr. Alarie: The advertising is, as stated "maintaining existing setbacks." However, with the new plot plan that we have received, the location of the structure is totally in conformance with the requirements and is not utilizing any existing non-conforming setback.

The only issue relative to this appeal is the frontage. The lot is non-conforming with respect with that frontage at the end of Old Faith Road. And again, once they remove a structure, they no longer qualify for the grandfathered provisions in the statute. So, therefore, the special permit is in order.

Mr. Salerno: Then how do we act on it, Ron, if it has been filed differently and advertised differently and the abutters get notice of it differently?

Mr. Alarie: Well, because there is less relief required with this proposal than what was advertised.

Atty. St. Pierre: That's right.

Ms. Murphy: My concern with it is that the proposed house is significantly foot-printed, the proposed house is significantly larger than the footprint of the existing house.

Atty. St. Pierre: But, not requiring any relief because it now complies.

Ms. Murphy: No, no. I understand that the setbacks are in conformance, but when your putting abutters on notice as to what the appeal is, does the change affect that notice.

Mr. Alarie: They are not notified in terms of the size of the house, only in terms of the relative issues. If they were trying to maintain existing setbacks, that would have a greater impact on the abutters perhaps.

Ms. Murphy: I understand that, but if I am an abutter and I know what the existing size of the house is and the advertisement says "maintaining the existing setbacks", then I would expect that it would be the same size house.

Mr. Alarie: But they could have built a house four times larger than what is proposed here and asked to maintain the existing setbacks.

Atty. St. Pierre: Sure.

Ms. Murphy: I understand that. My concern is putting the neighbors on notice as to exactly what's going on and that it is a different footprint.

Atty. St. Pierre: But, The application did not request that.

Ms. Murphy: If everyone is comfortable going forward with this knowing that there may well be a problem with the advertisement down the road and you may be coming back here again, then I'm willing to go forward with this.

Mr. Alarie: There is less relief required in terms of what they are proposing and what was advertised. We have had many similar situations where the proposal changes between the filing of the appeal and the public hearing and less relief is sought.

Mr. Salerno: Well, it's different.

Ms. Murphy: It is different relief, that's all.

Mr. Salerno: That's right.

Ms. Murphy: It's the notice that's my only problem.

Atty. St. Pierre: But again, the application was to remove an existing building and to build on the same lot. That is basically what the application stated when it was submitted.

Mr. Salerno: That's what we have to act on. In my opinion, what you submitted on the application and what's been advertised is what we should act on.

Atty. St. Pierre: Right. But again, this is what was submitted and time-stamped with the Town Clerk. It is what you have in front of you, just to remove the existing structure and rebuild on that lot. What happen after that, I'm not sure. I merely bring to the board's attention that the setbacks are not an issue. The only issue is to remove that building and to rebuild on that lot. Because, once again, once we remove it, then we lose the benefit of the pre-existing non-conforming status.

Mr. Salerno: Well then, what's different than that, what you ask for?

Atty. St. Pierre: Nothing.

Mr. Salerno: No, it isn't.

Mr. Alarie: Part of it is to allow the removal and the replacement of the existing dwelling. The second part to that, that what was advertised, was to maintain the existing setbacks. They don't need that relief. The primary focus of the request was to remove and replace that structure.

Mr. St. Pierre: Only.

Ms. Murphy: Mr. St. Pierre, if you feel it is acceptable to your clients and if you are comfortable with knowing what might come down the road in the future, I am willing to go forward with it.

Atty. St. Pierre: Absolutely, because I know what we applied for. That's fine. I don't have any problem with it.

Mr. Salerno: I just don't like the fact that it's different. I don't want to change things once they have been submitted. I don't want to set any precedence that allows us to amend applications or change applications from the date of submitting and advertising to the day of acting on it. I don't want to lose the credibility of the board with people who may rely on that. That's my concern.

Atty. St. Pierre: We're not asking for anything different than what we applied for.

Mr. Alarie: And, again, what's being requested is less than what's being advertised. It's not as if they are coming in and saying "We want just to remove and replace it" and then come in and say "Oh by the way, we also want to maintain the existing setbacks." That you could not act upon. In this case, the request for maintaining the setbacks is moot. They are not asking for that.

Atty. St. Pierre: Plus, we own the abutting lot. We own both of those lots. The neighbor next door happens to be us as well

Mr. Salerno: Well, it's everybody that's listed as the abutter.

Atty. St. Pierre: Oh, I understand.

Mr. Salerno: Why can't they just amend it, amend the application?

Mr. Alarie: There wouldn't be a need to because they don't need something that was advertised.

Atty. St. Pierre: If it would put the board at ease, I would amend the application and then ask that it not be acted upon as far as the set back and as far as the special permit granting and the other flexibility to adjust your decision. I don't have a problem, necessarily, with that.

Mr. Salerno: I don't have a problem if it's continued and amended and continued and put on the next agenda.

Atty. St. Pierre: Well, time-wise, that would be a problem due to the time element with winter coming and the construction period and the appeal period and things of that nature

Mr. Salerno: Why was there a change from the time you made the application to now?

Atty. St. Pierre: There was not a change. Look at our application. It was strictly to remove an existing building and to build a new structure. What happened after that was not done by us.

Mr. Salerno: It was loosely worded, that's one thing for sure. We're planning to remove our old home and rebuild on the same lot. We currently have a legal non-conforming lot.

Atty. St. Pierre: Again, that was submitted by my client. I did not get involved until some time after it was filed.

Mr. Salerno: Great.

Atty. St. Pierre: But, that's all she is asking.

Mr. Salerno: That's all that it says there.

Atty. St. Pierre: I understand and that's why I gave you a copy of what there was for a footprint. But, there was a footprint filed initially with the plan showing a 30 ft. x 50 ft. window as far as where the building was going to go with the proper setbacks. That's been modified a little bit, and I'll get into some detail there, because the original plan that was submitted with the application, I believe, had a 30 ft. setback from the street and from the side yard, if I am not mistaken. I don't have a copy of that. Yes I do. The original proposed house showed a 26 ft. setback. That was submitted with the application, if I'm not mistaken. Right, Ron?

Mr. George: We have a plan that shows a 30 ft. setback.

Mr. Gordon: I think that they are asking for less, not more. I think that, in the case of asking for less, we have the ability to act on the current.

Mr. Salerno: Yes, but it's not like your asking for 20 ft. and now saying "No, I only need 10 ft." This is almost like two different requests.

Mr. Gordon: I don't see that. I see this as they are asking to tear a house down and to build a new house. The other stuff is extra, but they don't need the other stuff now. So, it's just to tear down a house and build a house. They built the house next door and they bought additional land. The Mulcahy's have done the same thing down the road. I think their petition basically said "We want to tear down two houses and we want to put up one."

Mr. George: I think in that case, they used the existing setbacks on the house they removed.

Mr. Alarie: Which would be the worse case scenario, but that's not what they're proposing here.

Mr. Salerno: Well, you're defining "worse case." I don't know if that is the worse case. It's different, that's all I am saying. I don't know if it's worse case or not.

Mr. Alarie: Well, in a zoning-sense, it's a worse case because your not in conformance and need relief. Again, its like coming in and asking for a variance to be 5 ft. away and then you say "No, I'm going to revise it and will be 7 ft. away." You could not come in and advertise it at 5 ft. and then say "No, I need to be 3 ft." That's totally contrary to proper advertising.

In this instance, I think what happened is that there was a plot plan that came in showing the existing house. I probably wrote the ad, taking the worse case position, and said "to remove and replace and maintain the existing set backs." They do not need that second part of the appeal.

Atty. St. Pierre: Again, I'm comfortable going forward with that.

Mr. Salerno: You want to go forward with it the way it is?

Atty. St. Pierre: I have no problem, absolutely, again, because the thrust is to remove and replace.

Again, we have a pre-existing non-conforming lot. We are at the end of Old Faith Road, which is past Sunset Beach, some 700 ft. to 800 ft. past Sunset. The lot complies with zoning as Ron said earlier, except for the frontage. It is 26,000 sq. ft. in area. So, it is quite a large lot for Lake Quinsigamond.

Initially, the plan was to renovate the existing cottage that was built some time before 1920. But, with the structure in the condition it was in, it was not feasible. Therefore, the decision was made to demolish and remove it. Because of that, as we know, it does require a special permit.

The property is serviced by town sewer. In looking at the construction, the decision was made to talk to the water department to extend the water line down Old Faith Road to the property. That's some 600 ft. What that does afford is, like I think, allow for the four to five abutters along Old Faith Road to now tie into town water because, I guess, there are some water issues down in that part of Shrewsbury.

Mr. Gordon: They're shallow wells.

Atty. St. Pierre: Shallow wells, right. So, now we won't have that issue. In doing that as well, they're going to install a hydrant which makes the town much happier because the nearest hydrant is now nearly 700 ft. down the road. And again, that is all part of our application before you as part of your decision making.

The proposed house is shown on the plans that I have attached to give you an idea of the basic structure of the house. It will be scaled down because of the topography there. The house will be no larger than 2,500 sq. ft. I think the house that is before you in that plan as a sketch has an area of some 3,300 sq. ft. So, it's the same footprint, the same general appearances, but it will be smaller, some 2500 sq. ft.

So, again, we are looking for special permit. There is no additional traffic, no detriment to the neighborhood. It definitely complies in all other respects and is bettering this section of Shrewsbury, if you will. So, with the water and with the hydrant, I think it makes a lot of sense. It doesn't make sense to restore what is there.

Mr. Salerno: Why not?

Mr. Gordon: I think a storm knocked off part of the house.

Atty. St. Pierre: Well, a tree fell on it. I thought they already started demolition, but no, it was an Act of God which took the top part of the house. That was done after the decision was made to demolish it. I was kind of surprised when I saw it the other day. Again, we're open to any questions you might have about the building.

Mr. Gordon: Have we spoken to the abutters? Well, you are the abutter.

Atty. St. Pierre: Yes, we are one of the abutters. They are actually building next door as well.

Mr. Gordon: Which house are you going to be living in, the one next door or this one?

Ms. Acciardo: The one at 86.

Atty. St. Pierre: Yes, the other one next door. This was for development purposes to assist in financing their retirement home. They've actually been joint adventuring with Frank to develop this house. So, it will be sold for profit purposes to use it to aid in building their new home. They've owned the property next door since 1911.

Mr. Gordon: If I remember the last hearing, you came in for a variance because it was an undersized lot, it had undersized frontage and we denied it. So, from the church, you bought enough land to build on so it became a conforming lot?

Atty. St. Pierre: Correct.

Ms. Acciardo: Yes.

Mr. Gordon: And this is basically a lot, conforming, lot too.

Atty. St. Pierre: That's correct.

Mr. Gordon: And you are adding other things.

Atty. St. Pierre: That was the purpose of working with the church to work out both lots. Again, this land has been in their family since 1911, in Linda's family, so it brings them back home.

Mr. Salerno: Well, it's for sale, right?

Atty. St. Pierre: No, the one they are living in is on the property. They bought the property from the dioceses to tie in the two lots to make their existing property conforming so that they would not have to seek any variances. This lot is a special permit lot to rebuild instead of renovating. Their plan was to renovate the existing house that they bought from the diocese.

Mr. Salerno: The one that you are proposing tonight, are they living in it or selling it?

Atty. St. Pierre: No, they are living next door.

Mr. Salerno: So, they are selling it?

Atty. St. Pierre: They are going to be selling this one, correct.

Mr. Salerno: Right, and you just said "keeping it in the family" but they are going to sell it when they develop it?

Atty. St. Pierre: Next door, they're keeping that home in the family. That's the purpose of buying this property.

Mr. Gordon: I'm comfortable with it.

Mr. Salerno: All right. Thank you. We'll take it under advisement and notify you of our decision

Atty. St. Pierre: Thank you.

The decision of the board is on the following page.

Decision

On September 14, 2004, the Shrewsbury Zoning Board of Appeals voted four in favor of and one opposed to the granting of the appeal of Linda L. and Alfred C. Acciardo, 88 Old Faith Road, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the removal and the replacement of the single family dwelling situated upon property located at 88 Old Faith Road maintaining the existing setbacks of said property.

The subject property is the very last lot at the dead-end of Old Faith Road and has just over 25 ft. of frontage where the road terminates. It was developed well before zoning was instituted in Shrewsbury and, in addition to having nonconforming frontage, the dwelling situated thereon is positioned very close to its northerly side lot line and less than 30 ft. from the road. This nonconforming structure is very old, in disrepair and was recently damaged by a falling tree. The appellants propose to remove this building and then construct new single family home upon the premises that will comply with all applicable setbacks and other dimensional controls set forth in Table II of the Zoning Bylaw.

Upon review of this appeal, the majority of the board found that the re-development of this property would lessen its nonconforming character and would significantly improve its value and its appearance to the benefit of the area residents. They noted that this lot is one of the largest lots within the Old Faith Road neighborhood and that, when completed, the new structure would be one of the very few structures in this area to be in full compliance with all applicable setbacks. They also noted that, in conjunction with the construction of the new home, town water would be extended approximately 600 ft. to service the site and that a fire hydrant would also be installed thereby providing public water and fire protection to the several homes located at the end of this road. Overall, they found that the issuance of the special permit was in harmony with the statutory requirements regulating changes made to nonconforming properties and that it would advance the purposes of the bylaw. They, therefore, voted to grant the appeal as presented to the board.

One member of the board was of the opinion that the replacement of the existing structure, which is relatively small, with a new home that would contain approximately 2,500 sq. ft. of living area would substantially change the nonconforming features of this property. It was his opinion that such expansion would detrimentally affect the welfare of the neighborhood and, therefore, voted to deny the appeal.

Vote

Mr. Salerno	No
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rosen	Yes